

Authority: 5 U.S.C. 301; 15 U.S.C. 1501, 1512, 1513, 1515 and 1518; Reorganization Plan No. 5 of 1950; 3 CFR, 1949–1953 Comp., p. 1004; 44 U.S.C. 3101; subpart C is issued under 37 U.S.C. 101, 706; 15 U.S.C. 1673; 42 U.S.C. 665.

Subpart B—Testimony by Employees and the Production of Documents in Legal Proceedings

■ 2. Amend § 15.14 by revising paragraphs (f)(1) and (g)(1) to read as follows:

§ 15.14 Demand for testimony or production of documents in matters in which the United States is not a party.

* * * * *

(f) * * *

(1) Decline to answer on the grounds that such testimony is prohibited; and

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(g) * * * (1) Current employees, with or without compensation, shall not provide expert or opinion testimony in any legal proceedings regarding Department information, subjects, or activities except on behalf of the United States or a party represented by the United States Department of Justice, unless they receive a prior authorization in writing from the General Counsel or appropriate agency counsel.

(i) If, while testifying in any legal proceeding, an employee is asked for expert or opinion testimony regarding official information, subjects, or activities, which testimony has not been approved in advance in accordance with the regulations in this subpart, the witness shall:

(A) Decline to answer on the grounds that such expert or opinion testimony is forbidden by the regulations in this subpart; and

(B) Request an opportunity to consult with the General Counsel or appropriate agency counsel before giving such testimony.

(C) [Reserved]

(ii) If the body conducting the proceeding then orders the witness to provide expert or opinion testimony regarding official information, subjects, or activities without the opportunity to consult with either the General Counsel or appropriate agency counsel, the witness shall decline to comply with that order.

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

[SATS No. OH–258–FOR; Docket No. OSM–2017–0005; S1D1S SS08009000 SX064A000 278S180110; S2D2S SS08009000 SX064A000 27XS501520; S2R2B SS08009000 SX064A000 22XS50151]

Ohio Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approving.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is approving an amendment to the Ohio regulatory program (Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). OSM is approving Ohio’s proposal to add, rescind, or modify 39 rules under the Ohio Administrative Code that relate to, among other things: permit applications, hydrologic map and cross-sections, general map requirements, requirements for permits for special categories of mining, underground mining permit application, small operator assistance program, and self-bonding.

DATES: The effective date is November 25, 2026.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Koptchak, Field Office Director, Pittsburgh Field Office, Office of Surface Mining Reclamation and Enforcement, 3 Parkway Center, Pittsburgh, PA 15220; Telephone: (202) 513–7685; email: tkoptchak@osmre.gov.

SUPPLEMENTARY INFORMATION:

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VI. Procedural Determinations

I. Background on the Ohio Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its approved State program includes, among other things, State laws and regulations that govern surface coal mining and reclamation operations in accordance with the Act

and consistent with the Federal regulations. See 30 U.S.C. 1253(a)(1) and (7); 30 CFR 730.5 and 732.15(a). Based on these criteria, the Secretary of the Interior conditionally approved the Ohio program on August 16, 1982. You can find background information on the Ohio program, including the Secretary’s findings, the disposition of comments, and conditions for approval of the Ohio program in the August 10, 1982, **Federal Register** (47 FR 34688). You can also find later actions concerning the Ohio program and program amendments at 30 CFR 935.11, 935.12, 935.15, and 935.16.

II. Submission of the Amendment

By letter dated November 30, 2015 (Administrative Record No. OH–2194–01), the Ohio Department of Natural Resources (ODNR), Division of Mineral Resources Management (DMRM), sent us an amendment to its approved program under SMCRA (30 U.S.C. 1201 *et. seq.*) seeking to revise 39 rules of the Ohio Administrative Code (OAC). This submittal was prompted by requirements of Section 106.3 of the Ohio Revised Code that all Ohio agencies must review their administrative rules every five years.

OSM announced receipt of the request in the May 4, 2020, **Federal Register** (85 FR 26413) (Administrative Record No. OH–2194–07). In the same document, OSM opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. OSM did not hold a public hearing or meeting because none was requested. The public comment period ended on May 19, 2020. No comments were received.

III. OSM’s Findings

OSM made the following findings concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. OSM is approving the amendment as described below. Any revisions not specifically discussed are non-substantive wording or minor editorial changes to previously approved rules that are no less effective than the Federal regulations. The full text of the approved amendment is available online at www.regulations.gov.

A. New Rules

OAC 1501:13–4–08.1 Application, Supplemental and Hydrologic Maps, and Cross-Sections, Designs and Plans for Underground Workings

Ohio promulgated this new regulation for underground workings as a companion rule to OAC 1501:13–4–08, which formerly related only to hydrologic maps and cross-sections, but

which Ohio has also revised to include the requirements for maps, cross-sections, designs and plans for surface coal mining operations and surface operations of underground mines. This new rule includes mapping requirements applicable to underground workings only. Like the revisions to OAC 1501:13-4-08, which OSM addresses and approves below, Ohio used subsections (J) and (K) of OAC 1501:13-4-04 and 1501:13-4-13, which Ohio removed from those rules, and the hydrologic maps and cross section requirements of OAC 1501:13-4-08, as the baseline for this rule. Ohio modified those provisions to account for the fact that this new rule pertains only to underground workings. For reasons OSM explains more below in our findings, OSM will only describe the modifications Ohio made to those baseline provisions as they appear in Ohio's new version of OAC 1501:13-4-08.

First, in all but three instances (of which specifically required the term "permit area") Ohio replaced the term "permit area" with the term "shadow area," which is defined at OAC 1501:13-1-02(ZZZZZ) to mean the surface areas above the underground workings and surface areas within the angle of draw of such workings. Ohio did not include the requirements to show certain features that are specific to surface mining operations and not relevant to areas of underground workings, such as areas of prime farmland, identification of certain surface mining methods, drainage control features, haul roads, highwalls and slopes, and coal storage and cleaning areas. Ohio also eliminated the requirement that the map show the location and extent of subsurface water, noting that the requirement to show this feature on the cross-sections still exists at subsection (F)(1), and replaced the phrase "coal crop lines" with "coal contour lines." Ohio revised the requirement to show the location and extent of known workings of inactive or abandoned underground mines to also include other active underground mines.

Of the supplemental maps and cross-sections requirements at subsection (B), Ohio has only retained the requirement to show the nature, depth and thickness of the coal seams to be mined, each stratum of the overburden, and the stratum immediately below the lowest coal seam to be mined. Ohio also added a proviso that DMRM may request other relevant supplementary materials.

For the hydrologic map requirements at subsection (C), Ohio added language to require the map to include the area

within one thousand feet of the proposed shadow area for full coal recovery mining operations and within three hundred feet of the proposed shadow area for room and pillar mining, as well as the following features in those areas: all occupied buildings, perennial and intermittent streams, springs, seepage zones, water wells, and any well, well field, reservoir, river, or other water source used for a public water supply. Under subsection (D), Ohio added water supplies, sampling stations, and monitoring stations to the list of items for which DMRM may require additional information outside the area limits described above, and added water wells to the list of features that do not need to be shown on the hydrologic map when they are located beyond an intermittent or perennial stream located within one thousand feet of the proposed permit area and the lowest coal seam to be mined is at a higher elevation than the stream. Under subsection (F), Ohio revised the introductory language to specify that one or more hydrologic cross-sections may be required to adequately provide the information required under that rule.

OSM Finding: The Federal regulations at 30 CFR 784.23(a) require that maps, plans and cross-sections for underground mining permit applications must show the underground mining activities to be conducted, the lands to be affected throughout the operation, and any change in a facility or feature to be caused by the proposed operations if the facility or feature was shown on the maps or cross-sections required under 30 CFR 783.24 and 783.25. In promulgating this requirement, OSM explained that it is distinct from, and supplementary to, the requirements under subsection (b), which relates to features of the proposed permit area. See 44 FR 14902, 15077 (Mar. 13, 1979). Subsections (a) and (b) operate together to give the regulatory authority an overview of the entire operation, which is necessary to assess its cumulative impacts. *Id.* The Federal regulations do not otherwise enumerate the specific information an applicant must provide for underground workings, but uses the general requirements for maps, plans, and cross-sections relevant to the proposed permit area as a frame of reference. In that way, Ohio's new rule is no less effective than the Federal rule at 30 CFR 784.23(a). OSM finds that the provisions of Ohio's new rule at OAC 1501:13-4-08.1 capture all the requirements from its existing rules for surface operations of underground

mines that are relevant to underground workings and the areas and features above those workings that could be impacted by the underground mining operations, and that the proposed rules adequately authorize DMRM to require additional information as necessary. OSM also approves other modifications Ohio made to this rule that OSM did not discuss above because they are either minor or are revisions to Ohio's existing program that Ohio also made to the companion rule at OAC 1501:13-4-08, which OSM addresses and approves below.

B. Rescission of Self-Bonding

OAC 1501:13-7-04 Self Bonding (and Related Provisions)

Ohio is rescinding this rule in its entirety because DMRM has determined that it will no longer accept self-bonds as a form of performance security. In justifying its rescission, DMRM noted that self-bonding has never been used in Ohio. DMRM also referred to the coal industry's financial health, reflected by several bankruptcies, as a rationale for not accepting self-bonds in the future. With the rescission of this rule, Ohio also deleted the term "self-bond" from the definition of the term *performance security* at OAC 1501:13-1-02(III), the defined term *self-bond* at subsection (V) of that rule, and references to self-bonds at the following rules under Chapter 7 of the DMRM's coal mining regulations (related to performance security): OAC 1501:13-7-01(E)(4) (regarding the responsibilities of the chief of DMRM); OAC 1501:13-7-03(A)(3) and (C)(2) (regarding form, conditions, and terms of performance security); subsection (B)(4)(a) of both OAC 1501:13-7-05 and -05.1 (regarding release of performance security); and OAC 1501:13-7-06(C)(4)(c) (regarding forfeiture of performance security). In 2022, Ohio deleted an additional reference to the self-bonding rule from OAC 1501:13-7-03(B)(3).

OSM Finding: OSM approves the rescission of OAC 1501:13-7-04 because neither Section 509 of SMCRA nor its implementing regulations at 30 CFR part 800 require state regulatory authorities to accept self-bonding under their regulatory program. OSM's Final Rule relating to self-bonding published in the August 10, 1983, **Federal Register** (48 FR 36418) explains that the regulatory authority reserves the ultimate discretion whether or not to accept self-bonding. A State's discretion and flexibility to prescribe the type of performance bond that it find acceptable is further codified in the Federal regulations at 30 CFR 800.12 and

800.23. Therefore, Ohio's bonding regulations remain as effective as the Federal regulations in meeting the requirements of SMCRA without OAC 1501:13-7-04 and the related provisions from OAC 1501:13-1-02, and Chapter 7 (Performance Security), and OSM approves the deletion. OSM also approves Ohio's subsequent deletion of a reference to self-bonding at OAC

1501:13-7-03(B)(3) in 2022. Even though this provision was not made until after publication of the proposed rule in the 2020 **Federal Register** notice, OSM finds that it is materially consistent with the revisions that were the subject of that notice, and that providing additional notice and public procedure under section 553 of the Administrative Procedure Act (APA) is

impracticable, unnecessary, and contrary to public interest in light of our findings. *See* 5 U.S.C. 553(b)(B).

C. Minor Revisions and Minor Non-Substantive Changes to Ohio Rules

Ohio made minor and non-substantive revisions to the following provisions:

State regulation	Federal regulation/ counterpart	Revisions
OAC 1501:13-1-01 <i>Effective date and applicability</i> ..	30 CFR 701.11	(C)(4)(a) and (b) revised to incorporate two new rules related to valid existing rights, 1501:13-3-01 and 1501:13-3-02, and approved at SATS No. OH-252-FOR.
OAC 1501:13-1-13 <i>Rule references</i>	None	Example references to OAC 1501:13-4-04 were revised due to changes in paragraph numbering.
OAC 1501:13-1-14 <i>Incorporation by reference</i>	None	References to Federal laws and regulations updated.
OAC 1501:13-3-01 <i>Standards for demonstration of valid existing rights.</i>	30 CFR 761.5(b)(2)(iv)	References to the life-of-mine map have been updated as these requirements are being relocated to OAC 1501:13-4-08 and 1501:13-4-08.1.
OAC 1501:13-4-12 <i>Requirements for permitting special categories of mining.</i>	30 CFR 785.17	(F)(2) revised to fix citations to OAC 1501:13-4-04 and 1501:13-4-13.
OAC 1501:13-6-03 <i>Small operator assistance program.</i>	30 CFR 795.9(b)(3)	References to cross section maps and plans have been revised, as these are being relocated to OAC 1501:13-4-08 and 1501:13-4-08.1.
OAC 1501:13-8-01 <i>Coal exploration; performance standards.</i>	30 CFR 815.15	Reference to OAC 1501:13-9-14 corrected.
OAC 1501:13-9-02 <i>Casing and sealing of drilled holes.</i>	30 CFR 816.13, 816.15, 817.13, and 817.15.	Minor, editorial corrections/revisions.
OAC 1501:13-9-11 <i>Protection of fish, wildlife, and related environmental values.</i>	30 CFR 816.97 and 817.97	Rephrased using language from subsection (f) of the Federal rules.
OAC 1501:13-9-16 <i>Cessation of operations</i>	30 CFR 816.131 and 816.132	Minor, editorial corrections/revisions and the addition of a citation to ORC Chapter 1513.
OAC 1501:13-10-01 <i>Roads; performance standards</i>	30 CFR 816.151 and 817.151	Minor, editorial corrections/revisions to adopt phrasing from subsection (d)(6) of the Federal rules.
OAC 1501:13-12-01 <i>Underground operations</i>	None	Minor revisions to ensure that underground operations comply with all relevant provisions of ORC Chapter 1513 rather than only the permit requirements at ORC 1513.35.
OAC 1501:13-13-03 <i>Operations on prime farmland</i>	30 CFR 823.14	Minor, editorial corrections/revisions and to adopt phrasing from subsection (b) of the Federal rule.
OAC 1501:13-14-01 <i>Inspections</i>	30 CFR part 840	Removed outdated phrase "Conducted under a D-permit"; all coal mining in Ohio now uses D-permits.

OSM Finding: OSM has determined that these minor, editorial revisions do not affect the meaning or effectiveness of Ohio's regulations, which continue to be no less effective than the Federal regulations at meeting the requirements of SMCRA, and OSM therefore approves them.

D. Revisions to Ohio's Rules That Are No Less Effective Than the Corresponding Provisions of the Federal Regulations

OAC 1501:13-1-10 Availability of Records

In 2009, Ohio deleted language from subsection (B)(2) that required certain county offices in counties where mining is occurring or proposed to occur, but in which DMRM does not maintain its own

office, to either make copies of certain records available for public inspection or make available a description of information available for copying and mailing to requestors. Ohio's revision would have put the sole responsibility for making those records available on the DMRM district office responsible for inspection of the operation, in whichever county that office happens to be located. In 2016, as part of this current program amendment, Ohio restored the language it had deleted in 2009. Additionally, Ohio revised subsection (B)(2)(b) and added subparagraphs (b)(i) and (b)(ii), to make a distinction between requestors who are residents of the area where the mining is occurring and those who are not. Subparagraph (b)(i) provides that if the requestor is a resident of the area

where the mining is occurring, DMRM will provide copies of the requested documents at no charge, and subparagraph (b)(ii) provides that for other individuals requesting copies of the records, DMRM will comply with ODNR's policy in charging a fee for copies.

OSM Finding: Ohio submitted its 2009 revisions as part of a program amendment that OSM docketed at SATS No. OH-252-FOR. Subsequent to that submission, OSM notified Ohio of the requirement at 30 CFR 840.14(c) that requires that the records (or the description thereof) be available at a Federal, State or local government office in the county where the mining is occurring or proposed to occur, and Ohio restored the language it had deleted in order to keep its rule as

effective as the Federal rule. In the program amendment docketed at SATS No. OH-252-FOR, OSM deferred its decision on Ohio's 2009 revision until OSM could address it together with Ohio's 2016 correction. See 91 FR 51324, 51347 (Aug. 7, 2026). Because OSM had not approved Ohio's 2009 revision, it had not taken effect. See 30 CFR 732.17(g). Therefore, OSM need not approve Ohio's correction but reiterates that Ohio's corrected rule continues to be as effective as the Federal rule at 30 CFR 840.14(c). Secondly, OSM notes that 30 CFR 840.14(c)(2) requires only that in providing copies by mail, the regulatory authority must provide such copies at its own expense at the request of residents of the area where mining is occurring or proposing to occur. Therefore, Ohio's election to provide copies at no charge for residents and at a fee consistent with ODNr policy for nonresidents is no less effective than the Federal rule, and OSM approves Ohio's revisions to OAC 1501:13-1-10(B)(2)(b).

OAC 1501:13-4-03 Permit Applications; Requirements for Legal, Financial, Compliance and Related Information

Ohio revised subsection (D)(2) to narrow when a permit applicant mining a private mineral estate that has been severed from the private surface estate must submit a consent for right of entry from the landowner, a document of conveyance that expressly grants or reserves the right to extract the coal, and/or other documentation acceptable under state law that demonstrates that the applicant has that legal right. Ohio's revisions to subsection (D)(2) and its subordinate clauses add that such documents are required when surface disturbance will result from the applicant's proposed use of surface mining methods, and that the documents demonstrate that the landowner consents to, or the other documents convey the right to, cause the surface disturbance. Ohio also revised subsections (E)(3) and (E)(4) to specify that the distance limitations of coal mining operations from occupied dwellings and roads are measured horizontally.

OSM Finding: Ohio's revisions to this rule reflect revisions to Ohio's statutes at ORC 1513.07(E)(2) and ORC 1513.073 from Ohio House Bill 163 (approved June 30, 2011), 2011 Ohio Laws 36, which OSM approved in a separate program amendment docketed at SATS No. OH-252-FOR. See 91 FR 51324, 51343 (Aug. 7, 2026). OSM incorporates its discussion of those revisions here and approves the revisions to OAC 1501:13-4-03.

OAC 1501:13-4-04 Permit Application Requirements for Information on Environmental Resources

Ohio added subsection (D)(6), which consists of numerous provisions that outline the methodology a permit applicant must use to identify seasonal variations for groundwater and surface water, including a process for collection and submission of water samples and a table showing periods throughout the year that exhibit low flow, transition flow, intermediate flow, and high flow conditions.

In addition, Ohio included the Division's Permitting and Hydrology Policy/Procedure Directive 2002-2 (PPD 2000-2), so it would be applied consistently to all statewide mining permit applications. Ohio also added subsection (D)(7) to allow applicants to collect water quality and quantity data in a manner other than described in subsection (D)(6), so long as DMRM determines that the alternative data is adequate to identify the necessary seasonal variations for the hydrologic assessments required by ORC Chapter 1513 and its related regulations.

Ohio deleted subsections (J) and (K), which contained the requirements for maps, supplementary maps, cross-sections, designs and plans, and moved those provisions to OAC 1501:13-4-08 (discussed below), and a new rule at OAC 1501:13-4-08.1 (discussed above in Part A).

OSM Finding: The proposed revisions relate to Ohio's requirements for permit applications for information on environmental resources for the proposed mining area. The Federal regulations at 30 CFR 780.21(b) and 784.14(b) require that permit applicants include certain baseline hydrologic information, including the seasonal quality and quantity of groundwater and information on surface water quality and quantity sufficient to demonstrate seasonal variation, with quantity descriptions to include, at a minimum, baseline information on seasonal flow rates. OSM has determined that the proposed revisions have no Federal counterpart. Ohio incorporated these provisions into its regulations from its guidance document entitled, "Permitting and Hydrology Policy/Procedure Directive 2002-2(PPD 2000-2)" due to a 2007 State court decision in the matter *Buckeye Forest Council, Inc. v. Div. of Mineral Res. Mgmt.* 172 Ohio App.3d 440. In *Buckeye*, the Court of Appeals of Ohio, Seventh Appellate District, found that Ohio's guidance applied to all mining applications statewide, it constituted an improperly

promulgated rule that was therefore unenforceable (though that issue was not outcome determinative to the case). *Id.* at 446-47. Because Ohio simply adopted into regulation its existing guidance for complying with its approved SMCRA program, OSM considers these revisions non-substantive and find that they do not affect the meaning or effectiveness of Ohio's program. This rule continues to be no less effective than the Federal regulations requiring certain baseline hydrologic information at 30 CFR 780.21(b) and 784.14(b) and no less stringent than Section 507(b)(11) of SMCRA and are approved. OSM addresses the map requirements from subsections (J) and (K) as they appear in their new locations at OAC 1501:13-4-08 and -08.1 and approves their deletion here.

OAC 1501:13-4-05 Permit Application Requirements for Reclamation and Operation Plans

Ohio revised subsection (A)(2)(b) to require that certain facilities that the applicant proposes to retain on the property after the completion of reclamation be necessary for the approved postmining land use. Ohio's revision restores the requirement to the version that existed prior to April 30, 2009, when Ohio began to require that retention of the facilities need only be approved by DMRM. Subsection (G)(2) requires that the reclamation plan contain a copy of comments from the surface landowner and relevant government authorities concerning the proposed postmining land use. Ohio added a proviso to this subsection to specify that this requirement will not apply where no surface disturbance will result from proposed auger/highwall mining. Ohio also added subsection (H)(7) to incorporate by reference Soil Conservation Service Technical Release No. 60 and direct the reader to OAC 1501:13-9-04(H)(1)(a) for information on obtaining a copy.

OSM Finding: OSM addressed Ohio's restoration of subsection (A)(2)(b) in the program amendment docketed at SATS No. OH-252-FOR. In OH-252-FOR, OSM explained that because Ohio restored the requirement as OSM originally approved it, OSM did not need to address its deletion. See 91 FR 51324, 51349 (Aug. 7, 2026). Likewise, OSM does not need to further address its restoration.

Ohio explained that its new proviso for auger/highwall mining at subsection (G)(2) was predicated on a related revision to its statutes at ORC 1513.07(E) by Ohio House Bill 163, referenced above, that written consent

for right of entry by the landowner (or written conveyance for the right to mine) was required only where the mining would result in surface disturbance. OSM also addressed that revision in OH-252-FOR, where OSM explained that when an operation will not disturb the surface, the surface rights owner will not be affected. *Id.* at 51349. However, OSM added that in the case of room-and-pillar or auger mining, access points would qualify as surface disturbance. In Ohio's Rule Summary and Fiscal Analysis form dated November 2, 2015, which accompanied the current revision, Ohio explained that "the landowner will have full, undisturbed use of the land above auger/highwall mining before, during, and after mining" and that even with the new proviso, subsection (G)(2) remains as effective as the Federal provision at 30 CFR 780.23(c) because the proviso relates only to "the area above a highwall or auger mining operation that will not have surface disturbance." Even though the text of the proviso itself does not make this distinction between areas above the highwall and access points, OSM approves this revision with the understanding that the proviso does not apply to access points of these operations, which OSM explained in OH-252-FOR constitute surface disturbance. Under Ohio's interpretation of the proviso, subsection (G)(2) remains as effective as the Federal rule at 30 CFR 780.23(c) at meeting the requirements of the Act and is consistent with our approval of Ohio's revision to ORC 1513.07(E) in OH-252-FOR, and OSM will continue to monitor Ohio's implementation of this rule through our regular oversight function to determine whether future clarification is necessary. Finally, Ohio's addition of subsection (H)(7) has no substantive effect on Ohio's rules pertaining to ponds, impoundments, banks, dams, and embankments included in the reclamation plan and only provides additional reference for informational purposes. Therefore, OSM approves it.

OAC 1501:13-4-08 Application, Supplemental and Hydrologic Maps, and Cross-Sections, Designs and Plans

Ohio revised this rule, which formerly pertained only to hydrologic maps and cross-sections, to also include the map, cross-section, design and plan requirements for surface coal mining operations and the surface operations of underground mines that Ohio deleted from subsections (J) and (K) of both OAC 1501:13-4-04 (related to surface mining permit applications) and

1501:13-4-13 (related to underground mining permit applications). Subsection (A) relates to maps submitted with the permit application, and subsection (B) relates to supplementary maps, cross-sections, designs and plans. Ohio made several additional revisions, such as replacing the phrase "permit area" with "proposed permit area" and clarifying that certain features must be shown if they are within the proposed permit area, and certain other features must be shown if they are located in and within a certain distance from the proposed permit area. Ohio revised subsection (A)(25) to require that the application map show the location of gas and oil wells in and within twenty-five feet of the proposed permit area, rather than simply in the permit area, and the location of producing gas and oil wells in and within three hundred feet of the proposed permit area. With this revision, Ohio also segregated out the requirement that the map show the location of water wells into its own provision at subsection (A)(26).

OSM also deferred addressing revisions Ohio made to these provisions in 2010 that were part of OH-252-FOR, referenced above. *See* 91 FR 51324, 51348 (Aug. 7, 2026). Ohio deleted from the provision that now exists at subsection (A) that enabled an applicant to have its application maps certified by an engineer and added language allowing that they be certified by either a surveyor, or jointly by an engineer and surveyor to the extent such joint certification is required by State law. Similarly, Ohio deleted from the provision that now exists at subsection (B)(2) language that enabled an applicant to have its supplementary maps and cross-sections certified by a surveyor, now allowing that they be certified by an engineer or jointly by an engineer and a surveyor to the extent such joint certification is required by State law.

Finally, Ohio re-lettered the existing hydrologic map and cross-sections provisions as subsections (C)-(F) and revised internal citations accordingly. Ohio also revised subsection (C)(11), which required that the hydrologic map show all underground coal mine entries within one thousand feet of the proposed permit area, to now require the location and extent of known workings of active, inactive, or abandoned underground mines, including mine openings to the surface, within the proposed permit and adjacent areas.

OSM Finding: Ohio's transition to the phrase "proposed permit area" and additional phrasing to denote whether a feature must be within the proposed

permit area are minor clarifications that reflect our use of those qualifying phrases in the mapping requirements of 30 CFR Chapter VII, subchapter G. Ohio's revision to subsection (A)(25) to extend the rule to gas and oil wells within 25 feet of the proposed permit area, and out to 300 feet for producing gas and oil wells, is no less effective than the corresponding Federal requirements at 30 CFR 779.25(a)(10) and 783.25(a)(10), which only requires showing gas and oil wells within the proposed permit area. As OSM has explained before, Section 505(b) of SMCRA, 30 U.S.C. 1255(b), provides the States discretion to require more stringent regulations. Next, Ohio's revisions to limit who prepares and certifies maps, plans and cross-sections are no less effective than 30 CFR 779.25(b) and 783.25(b) at meeting the requirements of the Act. As OSM explained when OSM promulgated the Federal regulations, Congress amended SMCRA in 1983 to allow the preparation and certification of maps, plans and cross-sections to professional surveyors where authorized by State law. *See* 50 FR 16194 (Apr. 24, 1985). Ohio retains the discretion to direct which components of its mapping requirements are prepared by professional engineers, surveyors, or in combination, as appropriate under State law. Finally, Ohio's decision to require the location and extent of known workings of active, inactive, or abandoned underground mines on its hydrologic maps, in addition to the existing requirement to show the mine openings, is also no less effective than the Federal requirements. The Federal regulations at 30 CFR 779.25(a)(5) and 783.25(a)(5) require those features to be shown on the application maps, as does Ohio's regulation at subsection (A)(21), but does not otherwise require those be shown on the hydrologic map. Accordingly, OSM finds that Ohio's revisions to this rule render it no less effective, and in some cases more stringent, than the Federal mapping requirements of 30 CFR Chapter VII, subchapter G, and OSM approves them.

OAC 1501:13-4-09 General Map Requirements

Ohio revised subsection (B) to specify that the map legend must indicate which symbols from OAC 1501:13-4-10(C) appear on the map. Ohio also revised subsection (D)(1) to include supplemental maps and hydrologic maps in the list of map-types that could appear in the title, which must describe the map.

OSM Finding: These revisions relate to Ohio's general requirements for maps

submitted with permit applications for proposed mining operations. The Federal regulations do not contain any specific requirements for map legends nor titles. Consequently, each regulatory authority may provide map legend or title requirements it believes will aid in the effective implementation of its approved program. Therefore, the proposed revisions are no less effective than the various mapping requirements under 30 CFR Chapter VII, subchapter G, parts 777, 779, 780, 783 and 784, and no less stringent than Sections 507(b)(9), (b)(13) and (b)(14) of SMCRA, and OSM approves them.

OAC 1501:13-4-10 Uniform Color Code and Map Symbols

In updating this rule, Ohio determined that its changes and additions to the map symbols were significant enough that rescinding the existing rule and replacing it with the amended version was preferable to making line-by-line revisions. For our purposes, OSM simply notes the differences between the previous rule and the new rule as if they were revisions. Ohio revised subsection (A) to specify that supplemental maps and hydrological maps must also use the uniform color codes laid out in the rule. Ohio revised subsection (A)(3) to establish a color code for area lines and shading designating existing impoundments and wetlands, with the latter distinguished by whether the wetlands have been verified by the U.S. Army Corps of Engineers or not, and if they are proposed/restored/mitigated wetlands. Ohio revised subsection (A)(4) to clarify that the streams to which it applies may be perennial or intermittent, to change the coloring, and to add a distinction for areas within 100 feet of a perennial or intermittent stream where the buffer area will not be disturbed. Ohio also added color codes for any shadow areas at new subsection (A)(7), and, on annual maps, for remaining areas affected during each mining year that are not to be reaffected during the following mining year at new subsection (B)(3). Finally, Ohio revised subsection (C) to add a requirement that the size and location of each symbol must not obscure other necessary information on the map, and to modify and add to the list of uniform map symbols, which appear at paragraphs (1) through (82) (up from thirty-nine).

OSM Finding: The Federal regulations do not contain any specific requirements pertaining to mapping color codes or symbols. Like OSM found above with map legends and titles, each regulatory authority may provide color code or symbol requirements it believes

will aid in the effective implementation of its approved program. Therefore, the proposed revisions are no less effective than the various mapping requirements under 30 CFR Chapter VII, subchapter G, parts 777, 779, 780, 783 and 784, and no less stringent than Sections 507(b)(9), (b)(13) and (b)(14) of SMCRA, and OSM approves them.

OAC 1501:13-4-11 Maps Showing Reaffection of Permit Area

In addition to some miscellaneous editorial updates and corrections, Ohio revised subsections (B), (B)(2) and (B)(5) to restore the use of the phrase “valid existing rights,” which Ohio had changed to “a valid right to the mineral resource” in 2009.

OSM Finding: OSM need not discuss the substance of these provisions, the reason for Ohio’s 2009 change, which Ohio asserts was in error, nor its subsequent reversal. OSM neither addressed nor approved Ohio’s 2009 revisions and, therefore, as mentioned elsewhere in this amendment, OSM need not address Ohio’s subsequent correction.

OAC 1501:13-4-13 Underground Mining Permit Application Requirements for Information on Environmental Resources

Ohio made the same revisions to the mapping and seasonal variation of water provisions to this rule that it made to OAC 1501:13-4-04, the equivalent regulation for surface coal mining permit applications that OSM discusses above.

OSM Finding: OSM incorporates its discussion above of those changes here and approves the revisions to this rule for the same reasons.

OAC 1501:13-4-14 Underground Mining Permit Application Requirements for Reclamation and Operations Plans

Like its companion rule for surface mining permits at OAC 1501:13-4-05, addressed above, Ohio revised subsection (A)(2)(b) to require certain facilities the applicant proposes to retain on the property after the completion of reclamation be necessary for the approved postmining land use. Ohio’s revision restores the requirement to the version that existed prior to April 30, 2009, when Ohio began to require that retention of the facilities need only be approved by DMRM. Ohio also added subsection (H)(7) to incorporate by reference Soil Conservation Service Technical Release No. 60 and direct the reader to OAC 1501:13-9-04(H)(1)(a) for information on obtaining a copy.

OSM Finding: As OSM discussed above, OSM need not address any further Ohio’s revisions restoring the requirements of subsection (A)(2)(b). OSM also incorporates our findings from above regarding Ohio’s revision to subsection (H)(7) of OAC 1501:14-4-05, and OSM approves the identical revision here for the same reasons.

OAC 1501:13-5-01 Review, Public Participation, and Approval or Disapproval of Permit Applications and Permit Terms and Conditions

Ohio revised subsection (E)(6) to specify that DMRM must review the permit application to ensure that the applicant has provided proper right-of-entry documentation for areas where the proposed operation results in surface disturbance. Ohio also revised subsection (G)(3), which requires that each permit has a specific condition that coal mining and reclamation operations are conducted only on those lands specifically designated on maps submitted pursuant to certain rules, to add a reference to its new mapping rule for underground workings at OAC 1501:13-4-08.1, which OSM approved above.

OSM Finding: As OSM explains above in our approval of revisions to OAC 1501:13-4-03(D)(2), Ohio’s revisions to this rule reflect revisions to Ohio’s statutes at ORC 1513.07(E)(2) and ORC 1513.073 from Ohio House Bill 163 of 2011, which OSM approved in a separate program amendment docketed at SATS No. OH-252-FOR. See 91 FR 51324, 51342-43 (Aug. 7, 2026). OSM incorporates our discussion of those revisions here and approves this revision. OSM notes that Ohio made a subsequent revision to a citation to OAC 1501:13-4-03 due to a revision Ohio made to that rule in 2018. The 2018 revision, and by extension the 2020 correction, are part of a separate program amendment docketed at SATS No. OH-256-FOR, and OSM does not make any determination on them here.

Ohio’s revision to subsection (G)(3) does not substantively change the rule’s requirements, which OSM had already found as effective as the corresponding Federal regulation at 30 CFR 773.17(a). The Federal rule more broadly describes “maps submitted with the application” without enumerating the required maps. Ohio made a subsequent revision to subsection (G)(3) that is a part of OH-256-FOR, and which OSM does not address here.

OAC 1501:13-7-07 Liability Insurance

Ohio revised subsection (A) to allow a permit applicant with an existing permit to include in a new permit

application a notarized certification recognizing that proof of liability insurance, along with the rider required by subsection (B)(3), exist in the applicant's central file for identity information authorized by OAC 1501:13-4-03(J), in lieu of a separate, independent certificate of insurance.

OSM Finding: The Federal regulations at 30 CFR 800.60 require that an applicant must submit as part of its permit application a certificate of insurance that meets the requirement of that rule, including a rider that requires that the insurer notify the regulatory authority whenever substantive changes are made in the policy including termination or failure to renew. The Federal regulation does not expressly provide that in lieu of that certificate, an operator may provide a notarized certification that a certificate of insurance exists in a central file that exists for the applicant. However, OSM finds that this measure, meant to avoid duplication of documents for applicants that hold several permits, is no less effective than the Federal requirement, and OSM approves it. In promulgating 30 CFR 800.60, OSM specified in response to public comments that one policy could cover multiple operations. See 48 FR 32910, 32958 (July 19, 1983). OSM approved Ohio's creation of the central file authorized by OAC 1501:13-4-03(J) in 2015, noting that while it has no precise Federal counterpart, that it provides an acceptable alternative means for submitting, updating, and maintaining identification information. See 80 FR 63120, 63123 (Oct. 19, 2015).

OAC 1501:13-9-01 Signs and Markers

Ohio limited the types of markers that may be used at the operation to fence posts, trees, engineering lath or stakes by deleting from subsection (C)(1) the phrase "but shall not be limited to." Ohio also revised the marker requirements for buffer zones at subsection (E) by requiring those markers include orange and black stripes to distinguish them from the solid orange required of other markers and require that they clearly define the limits of the buffer zone so that adjacent buffer zone makers are visible in either direction along the boundary. Ohio also reduced the number of paragraphs from subsection (C) that apply to buffer zones, eliminating the application of paragraphs (2), (4), and (6), that apply to the permit boundary and permit area more broadly, and added a reference to its rule describing buffer zones at OAC 1501:13-9-04(E).

OSM Finding: The Federal regulations concerning signs and markers at 30 CFR 816.11 and 817.11 only require that they

are of uniform design, can be easily seen and read, are made of durable material, and conform to local ordinances and codes, among other general performance standards. Regarding buffer zones, the Federal regulations require that they are marked only along their boundaries. Ohio's revisions relate to details that do not exist in the Federal regulations and do not diminish Ohio's existing requirements, which OSM had originally found to be as effective as the Federal regulations at the time OSM approved of the Ohio program. Therefore, OSM approves these revisions.

OAC 1501:13-9-07 Disposal of Excess Spoil

Ohio revised subsection (K), which requires that underground disposal of excess spoil occur according to a plan approved by DMRM and MSHA under OAC 1501:13-4-14(N), by adding a citation to subsection (O). Ohio also corrected applicable internal citations at subsection (M), related to durable rock fills, and subsection (N), restoring an earlier requirement that placement of spoil on preexisting benches meet the engineering and design requirement of subsection (B). Also, at subsection (N), Ohio disallows placement of excess spoil on the downslope below the upper bench except on designated gravity transport courses properly prepared according to OAC 1501:13-9-03. Ohio revised this provision to add that the courses also be prepared according to OAC 1501:13-9-14, which also contains requirements for postmining graded slopes.

OSM Finding: OSM finds that none of the citations Ohio added or revised in this rule changed the basic existing requirements that already conformed to the Federal requirements at 30 CFR 816.71 (Disposal of excess spoil: General requirements), 816.73 (Disposal of excess spoil: Durable rock fills) and 816.74 (Disposal of excess spoil: Preexisting benches), and their correlating provisions in 30 CFR part 817. In restoring the requirement that design be certified by a registered professional engineer, Ohio explained that it was unclear why the reference was removed through a rulemaking in 1988, but that it is required by subsection (c) of both 30 CFR 816.74 and 817.74. OSM notes that OSM also did not approve its removal in 1988, so OSM considers this correction typographical. Following Ohio's revisions, OAC 1501:13-9-07 remains as effective as the Federal regulations in meeting the requirements of the Act, and, therefore, OSM approves them.

OAC 1501:13-9-08 Protection of Underground Mining

Ohio added subsections (B) and (C) to this rule to create a two-hundred-foot distance limitation between underground mining operations and other active and abandoned underground mining operations, as well as from coal exploration drilling operations. Ohio made a corresponding revision to subsection (A) to clarify that subsection (A) regulates surface mining operations.

OSM Finding: Neither of Ohio's new provisions require our approval because they do not regulate activities subject to SMCRA and its implementing regulations. Subsection (B) regulates the underground activities of underground coal mining operations; it does not regulate the surface operations or surface effects of underground mines regulated by SMCRA. See 30 U.S.C. 1291(28). Subsection (C) regulates the distance that must remain between coal exploration drilling and underground coal mines. While SMCRA does regulate some components of coal exploration activities, see 30 U.S.C. 1262 and 30 CFR parts 772 and 815, the distance between coal exploration drilling and underground workings is not a component of the Federal program. Ohio's revisions to subsection (A), which reflects the Federal requirement for surface mining activities at 30 CFR 816.79, are merely editorial to distinguish it from subsections (B) and (C), and OSM approves them.

OAC 1501:13-9-15 Revegetation

Ohio revised subsection (F)(6), which requires that permanent vegetation that is established or reestablished on areas unavoidably disturbed in order to meet reclamation standards, or in the course of gaining access for the removal of sediment control structures, must have been seeded a minimum of twelve months before the request for phase III bond release. Ohio's revision to this subsection allows DMRM to determine that the 12-month requirement does not apply if the area of repair was limited in size and the permittee is in compliance with subsection (G)(3)(b), which is a standard of revegetation success requiring the ground cover to equal or exceed 90 percent and no single area with less than thirty percent cover shall exceed the lesser of three thousand square feet or 0.3 percent of the land affected.

OSM Finding: When OSM initially approved subsection (F)(6) and its related provisions in 1998, OSM explained that the 12-month minimum requirement should be sufficient to

establish a permanent and diverse vegetative cover as required by SMCRA because the lands typically involved will be small in size, widely dispersed, and surrounded by vegetative lands. *See* 63 FR 51829, 51831 (Sept. 29, 1998). OSM also explained that the 12-month minimum requirement in no way reduces or eliminates any of Ohio's standards for reclamation success or bond release. Both of these findings remain true for areas which DMRM relieves the operator from the 12-month requirement based on a determination that the area of repair is limited in size and complies with OAC 1501:13-9-15(G)(3)(b). Therefore, OSM finds that Ohio's revision does not render OAC 1501:13-9-15 any less effective than the Federal regulations at 30 CFR 816.116(c)(4) and 817.116(c)(4) at meeting the requirements of Sections 515(b)(19), (b)(20)(A) and (b)(20)(B) of SMCRA, and OSM approves it.

OAC 1501:13-9-17 Postmining Use of Land

Ohio revised subsection (D) to add two additional criteria that must be met for DMRM to approve an alternative postmining land use. Ohio added paragraph (2), which requires that the use not be impractical or unreasonable, and paragraph (7), that the use will not cause or contribute to violation of Federal, State, or local law.

OSM Finding: Ohio's proposed revisions to add these criteria make Ohio's regulation consistent with the Federal regulations at 30 CFR 816.133 and 817.133, which include the same requirements at subsections (c)(3)(i) and (iv) of each rule. Therefore, OSM approves Ohio's revisions to OAC 1501:13-9-17.

OAC 1501:13-11-02 Support Facilities and Utility Installations

Ohio revised subsection (C) to add to the list of utility installations to which coal mining operations must minimize damage, destruction or disruption of services, to include oil, gas, and water wells, water and sewage lines and telecommunication lines (in addition to telephone lines, which already existed in the regulation).

OSM Finding: Ohio's proposed revisions to include oil, gas and water wells, water and sewage lines, and telecommunications lines, make Ohio's regulation consistent with the Federal regulations at 30 CFR 816.80 and 817.180, which explicitly include those wells and lines. OSM also interprets "other telecommunication lines" to be a necessary and natural interpretation of the Federal requirement to include telephone lines. Therefore, OSM

approves Ohio's revisions to OAC 1501:13-11-02.

IV. Summary and Disposition of Comments

Public Comments

OSM asked for public comments on the amendment (Administrative Record No. OH-2194-01). The comment period closed on May 19, 2020. OSM did not receive any comments.

Federal Agency Comments

On February 27, 2017, pursuant to 30 CFR 732.17(h)(11)(i) and Section 503(b) of SMCRA (30 U.S.C. 1253(b)), OSM requested comments on the amendment from various Federal agencies with an actual or potential interest in the Ohio program (Administrative Record No. OH-2194-01). Comment letters received back from these other agency consultations are listed below.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(ii), OSM is required to get a written concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). By way of letter dated October 3, 2018, EPA determined that the proposed Ohio amendment does not pertain to programs under their purview and therefore there was no need for further EPA action.

Mine Safety and Health Administration Concurrence and Comments

By way of letter dated April 10, 2017, MSHA stated they had reviewed the proposed Ohio amendment and had no comment.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), OSM is required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On February 27, 2017, OSM requested comments on Ohio's amendment (Administrative Record No. OH-2194-01). OSM did not receive comments from the SHPO or ACHP.

V. OSM's Decision

Based on the above findings, OSM approves the Ohio amendments sent to us on November 30, 2015 (Administrative Record NO. OH-2194-01). To implement this decision, OSM is amending the Federal regulations at 30 CFR part 935 that codify decisions concerning the Ohio program. In

accordance with the APA, this rule will take effect 30 days after the date of publication.

VI. Procedural Determinations

Executive Order 12630—Governmental Actions and Interference With Constitutionality Protected Property Rights

This rule would not result in a taking of private property or otherwise have taking implications that would result in public property being taken for government use without just compensation under the law. Therefore, a takings implication assessment is not required. This determination is based on an analysis of the corresponding Federal regulations.

Executive Order 12866—Regulatory Planning and Review and 13563—Improving Regulation and Regulatory Review

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB) will review all significant rules. Pursuant to OMB guidance, dated October 12, 1993 (OMB Memo M-94-3), the approval of state program amendments is exempted from OMB review under Executive Order 12866. Executive Order 13563, which reaffirms and supplements Executive Order 12866, retains this exemption.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has reviewed this rule as required by section 3(a) of Executive Order 12988. The Department has determined that this **Federal Register** document meets the criteria of section 3 of Executive Order 12988, which is intended to ensure that the agency review its legislation and proposed regulations to eliminate drafting errors and ambiguity; that the agency write its legislation and regulations to minimize litigation; and that the agency's legislation and regulations provide a clear legal standard for affected conduct rather than a general standard, and promote simplification and burden reduction. Because section 3 focuses on the quality of Federal legislation and regulations, the Department limited its review under this Executive Order to the quality of this **Federal Register** document and to changes to the Federal regulations. The review under this Executive Order did not extend to the language of the State regulatory program or to the program amendment that the State of Ohio drafted.

Executive Order 13132—Federalism

This rule has potential Federalism implications as defined under Section 1(a) of Executive Order 13132. Executive Order 13132 directs agencies to “grant the States the maximum administrative discretion possible” with respect to Federal statutes and regulations administered by the States. Ohio, through its approved regulatory program, implements and administers SMCRA and its implementing regulations at the State level. This rule approves an amendment to the Ohio program submitted and drafted by the State, and thus, is consistent with the direction to provide maximum administrative discretion to States.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

The Department of the Interior strives to strengthen its government-to-government relationship with Tribes through a commitment to consultation with Tribes and recognition of their right to self-governance and tribal sovereignty. OSM has evaluated this rule under the Department’s consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on the distribution of power and responsibilities between the Federal government and Tribes. The basis for this determination is that our decision on the Ohio program does not include Indian lands as defined by SMCRA or other Tribal lands, and it does not affect the regulation of activities on Indian lands or other Tribal lands. Indian lands under SMCRA are regulated independently under the applicable Federal Indian program unless the Indian Tribe obtains primacy. The Department’s consultation policy also acknowledges that our rules may have Tribal implications where the State proposing the amendment encompasses ancestral lands in areas with mineable coal. OSM is currently working to identify and engage appropriate Tribal stakeholders to devise a constructive approach for consulting on these amendments.

Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Executive Order 13211 requires agencies to prepare a Statement of Energy Effects for a rulemaking that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not significant energy action under the definition in Executive Order 13211, a Statement of Energy Effects is not required.

National Environmental Policy Act

Consistent with Sections 501(a) and 702(d) of SMCRA (30 U.S.C. 1251(a) and 1292(d), respectively) and the U.S. Department of the Interior Departmental Manual, part 516, section 13.5(A), state program amendments are not major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not include requests and requirements of an individual, partnership, or corporation to obtain information and report it to a Federal agency. As this rule does not contain information collection requirements, a submission to the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is not required.

Regulatory Flexibility Act

This rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

Congressional Review Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) does not have an annual effect on the economy of \$100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based on an analysis of the corresponding Federal regulations, which were determined not to constitute a major rule.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or Tribal governments, or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector. This determination is based on an analysis of the corresponding Federal regulations, which were determined not to impose an unfunded mandate. Therefore, a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

List of Subjects in 30 CFR Part 935

Intergovernmental relations, Surface mining, Underground mining.

Thomas Koptchak,

Acting Regional Director, North Atlantic—Appalachian Region.

For the reasons set out in the preamble, 30 CFR part 935 is amended as set forth below:

PART 935—OHIO

■ 1. The authority citation for part 935 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 2. In § 935.15, amend the table by adding an entry for “November 30, 2015” at the end of the table to read as follows:

§ 935.15 Approval of Ohio regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
November 30, 2015	October 26, 2026	OAC 1501:13–1–01, –02, –10, –13, –14; –3–01; –4–03, –04, –05, –08, –08.1, –09, –10, –12, –13, –14; –5–01; –6–03; –7–01, –03, –04(rescinded), –05, –05.1, –06, –07; –8–01; –9–01, –02, –07, –08, –11, –15, –16, –17; –10–01; –11–02; –12–01; –13–03; –14–01.

[FR Doc. 2026–21807 Filed 10–23–26; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 950

[SATS No. WY–055–FOR; Docket ID No. OSM–2025–0002; S1D1S SS08009000 SX064A000 278S180110; S2D2S SS08009000 SX064A000 27XS501520; S2R2B SS08009000 SX064A000 22XS50151]

Wyoming Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approving

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM), are approving an amendment to the Wyoming regulatory program (Wyoming program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The Wyoming Land Quality Division (WLQD) submitted this proposed amendment in response to our January 19, 2024 partial approval of an amendment to WLQD's regulations for coal exploration by drilling (SATS No. WY–050–FOR; Docket ID No. OSM–2021–0004). In the final rule, under the heading “Revisions to Wyoming’s Rules That We Are Not Approving,” OSM listed several provisions containing typographical errors that WLQD would need to correct through future rulemaking. WLQD now proposes those corrections with this amendment (SATS No. WY–055–FOR; Docket ID No. OSM–2025–0002).

DATES: The effective date is November 25, 2026.

FOR FURTHER INFORMATION CONTACT: Jeffrey Fleischman, Field Office Director, Office of Surface Mining Reclamation and Enforcement, 100 East B Street, Room 4100; Casper, Wyoming 82602. Telephone: (307) 261–6550. Email: jfleischman@osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Wyoming Program

II. Submission of the Amendment

III. OSM’s Findings

A. Minor Revisions to Wyoming’s Rules

IV. Summary and Disposition of Comments

V. OSM’s Decision

VI. Procedural Determinations

I. Background on the Wyoming Program

Section 503(a) of SMCRA permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, State laws and regulations that govern surface coal mining and reclamation operations in accordance with SMCRA and consistent with the Federal implementing regulations. See 30 U.S.C. 1253(a)(1) and (7); 30 CFR 730.5 and 732.15(a).

On the basis of these criteria, the Secretary of the Interior conditionally approved the Wyoming program on November 26, 1980. You can find background information on the Wyoming program, including the Secretary’s findings, the disposition of comments, and conditions of approval in the November 26, 1980, **Federal Register** (45 FR 78637). You can also find later actions concerning the Wyoming program and amendments thereto at 30 CFR 950.10, 950.12, 950.15, 950.16, and 950.20.

II. Submission of the Amendment

Between 1978 and 2007, the Wyoming State legislature enacted a number of revisions to its statutes governing coal exploration by drilling. The proposed statutory revisions reflected organizational updates at WLQD, corrected typographical errors, provided more detailed instructions for plugging and sealing drill holes, incorporated provisions for the awarding of attorney fees and other litigation costs, and included more detailed instructions for bond release. In addition to the statutory changes, on March 2, 2016, the Wyoming Environmental Quality Council approved several revisions to Chapter 14 of the Land Quality Division Coal Rules and Regulations governing coal exploration by drilling, which were last updated in 1998. Specifically, the rules were updated to include best management practices and standards adopted by the Wyoming State

Engineer’s Office that conform with accepted practices established by the American Society for Testing and Materials, the American Water Works Association, and the Wyoming DEQ—Water Quality Division regulations. Other revisions included a list of acceptable grout materials, requirements to plug and immediately cap the entire drill hole, additional identification numbers to facilitate inspections, and minor formatting and organizational changes. Accordingly, by letter dated June 4, 2021, the State proposed to OSM these statutory and regulatory changes on its own initiative.

On January 19, 2024, OSM approved, with exceptions, the WY–050–FOR amendment, effective February 20, 2024 (89 FR 3562). In the final rule, under the heading “Revisions to Wyoming’s Rules That We Are Not Approving,” OSM noted an inadvertent word-swap in the language proposed for chapter 14, subsection 3(a) addressing reclamation of drill sites and ancillary roads: specifically, the word “location” was used instead of the previously approved word “condition,” rendering the rule illogical. OSM also noted that WLQD, in referencing its own “Land Quality Division Coal Rules and Regulations” in the language proposed for chapter 14, subsections 3(c), 3(d), 3(e), and 4(d), omitted the word “Division” and that made the title of these regulations incomplete.

As laid out in the final rule, by letter dated October 24, 2023, OSM informed WLQD of these typographical errors and the need to correct them, while offering to delay rulemaking under WY–050–FOR to accommodate the corrections. WLQD responded by letter dated November 22, 2023, that, although they had taken the initial steps to address OSM’s concerns, the State’s internal rulemaking processes would preclude WLQD from making the corrections within the allowable timeframe. WLQD subsequently undertook rulemaking to correct the minor errors; the revised rules were approved by the Environmental Quality Council on October 23, 2024, filed with the Wyoming Secretary of State on January 3, 2025, and transmitted to OSM on January 22, 2025. In the January 22,